

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

WASH WORLD INC.,

Plaintiff,

v.

**BELANGER, INC., AND
PISTON OPW, INC. D/B/A OPW, INC.,**

Defendants.

Case No. 1:19-cv-01562-WCG

**RESTRICTED TO THE COURT AND
COUNSEL FOR THE PARTIES**

**DECLARATION OF CHRISTOPHER R. DILLON IN SUPPORT OF
BELANGER, INC.'S MOTION FOR ATTORNEY FEES**

I, Christopher R. Dillon, declare as follows:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts and am admitted to practice before this Court. I am a principal in the Boston office of Fish & Richardson P.C., and am one of the attorneys representing Defendant Belanger, Inc. (“Belanger”) in the above-captioned matter. I make this declaration on personal knowledge and if called as a witness could and would competently testify as to the matters stated herein.

2. Wash World, Inc. (“WashWorld”) filed a declaratory judgment suit against Belanger on October 24, 2019. Dkt. 1. On August 4, 2022, the jury returned a verdict in favor of Belanger. Dkt. 223. The jury (1) found that WashWorld infringed claims 7, 11, 12, 13, and 14 of U.S. Patent No. 8,602,041 (the “’041 patent”), (2) found that WashWorld’s infringement was willful, and (3) awarded Belanger \$9.8 million in lost profits damages and \$260,000 in reasonable royalty damages. *Id.*

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3. Reasonable attorney fees are determined by calculating the “lodestar” amount. The lodestar figure is calculated by multiplying “the number of hours reasonably expended on the litigation” by “a reasonable hourly rate.” *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).

4. In addition to me, Fish & Richardson’s core team for this case included Whitney A. Reichel, Jacob B. Pecht, Kayleigh E. McGlynn, Trevor Goodrich, and Matthew W. Compton. Additional Fish & Richardson attorneys and staff billed a small amount of time to the case. While I believe the hours of these other Fish & Richardson timekeepers were necessary and valuable to represent Belanger, and their time was billed to and paid by Belanger, Belanger is seeking to recover only the fees from its core litigation team.

5. Exhibit A is from a spreadsheet detailing the Fish & Richardson team’s work since the date of the filing of the Complaint in this case, October 24, 2019 through August 22, 2022, for which Belanger seeks to recover fees.¹ The information in Exhibit A is taken directly from time records that Fish & Richardson attorneys, paralegals, and other timekeepers are required to accurately enter in the ordinary course of business.² In addition to Exhibit A, the following summarizes the background, work, and roles of each of the Fish & Richardson team members discussed above:

6. Christopher R. Dillon: I am a Principal at Fish & Richardson with more than 24 years of experience as a litigator, with a primary focus on intellectual property litigation. I argued many of Belanger’s motions in this case; at trial, I gave the opening statement and closing argument, and also conducted direct and cross examinations; before trial, I took and defended

¹ Exhibit A has been redacted to preserve privileges and work-product protection. An unredacted version of Exhibit A can be provided to the Court for *in camera* review.

² Each time entry in the Fish & Richardson time records includes the work date, timekeeper name, narrative summary of the work performed, and the hours worked (in six-minute increments).

numerous depositions, played a significant role in drafting Belanger's motions and other written work product, worked with fact and expert witnesses, and directed overall case strategy. I graduated from the University of Notre Dame with a B.A. degree in 1988, and from Boston College Law School with a J.D. degree in 1998. My hourly billing rate for this matter over the course of this litigation ranged from \$770 to \$875. The rates that Fish & Richardson charges Belanger are discounted off of the firm's retail rate; my retail hourly billing rate over the course of this litigation ranged from \$925 to \$1,050.

7. Whitney A. Reichel: Ms. Reichel is a Principal at Fish & Richardson with more than 17 years of experience as a litigator, with a primary focus on intellectual property litigation. Ms. Reichel argued several of Belanger's motions in this case; at trial, Ms. Reichel conducted direct and cross examinations; before trial, Ms. Reichel took and defended numerous depositions, played a significant role in drafting Belanger's motions and other written work product, worked with fact and expert witnesses, and directed overall case strategy. Ms. Reichel graduated from Brown University with a B.S. degree in 2002, and graduated from the University of Michigan Law School with a J.D. degree in 2005. Ms. Reichel's hourly billing rate for this matter over the course of this litigation ranged from \$735 to \$827. Ms. Reichel's retail hourly billing rate over the course of this litigation ranged from \$860 to \$1,000.

8. Jacob B. Pecht: Mr. Pecht is an Associate at Fish & Richardson with more than 4 years of experience as a litigator, with a primary focus on intellectual property litigation. Under the direction of Ms. Reichel, Mr. Pecht assisted with the preparation of the technical expert reports, discovery, and presentation, and assisted with several motions throughout the case. Mr. Pecht graduated from Smith College with a B.A. degree in 2012, and graduated from Northeastern University School of Law with a J.D. degree in 2017. Mr. Pecht's hourly billing rate for this matter

over the course of this litigation ranged from \$426 to \$608. Mr. Pecht's retail hourly billing rate over the course of this litigation ranged from \$525 to \$735.

9. Kayleigh E. McGlynn: Ms. McGlynn is an Associate at Fish & Richardson with nearly 3 years of experience as a litigator, with a primary focus on intellectual property litigation. Under the direction of Mr. Dillon and Ms. Reichel, Ms. McGlynn assisted with drafting and responding to fact discovery, drafting briefs, and pretrial submissions. Ms. McGlynn graduated from Boston College with a B.S. degree in 2014, and graduated from Boston College Law School with a J.D. degree in 2019. Ms. McGlynn's hourly billing rate for this matter over the course of this litigation ranged from \$381 to \$543. Ms. McGlynn's retail hourly billing rate over the course of this litigation ranged from \$450 to \$665.

10. Trevor Goodrich: Mr. Goodrich is a Paralegal at Fish & Richardson with 16 years of litigation experience. Mr. Goodrich assisted with discovery, deposition preparation, motion filings, and pretrial submissions. Mr. Goodrich graduated from Georgetown University with a B.A. degree in 2005. Mr. Goodrich's hourly billing rate for this matter over the course of this litigation ranged from \$293 to \$306. Mr. Goodrich's retail hourly billing rate over the course of this litigation ranged from \$330 to \$360.

11. Matthew W. Compton: Mr. Compton is a Senior Litigation Knowledge Management Technology Solutions Analyst at Fish & Richardson with more than 3 years of experience managing war rooms for trial and providing trial support. Mr. Compton assisted with trial in this case. Mr. Compton graduated from Lee University with a B.S. degree in 2006. Mr. Compton worked approximately 73 hours preparing for and participating at trial. Fish & Richardson did not bill Mr. Compton's time to Belanger because the firm used this trial as an opportunity for Mr. Compton to gain experience as a trial director, with the expectation that the

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firm would bill his time to clients for future trials. If Fish & Richardson billed Mr. Compton's time to Belanger, his hourly billing rate would have been \$280.

12. I have set forth below a true and accurate summary of the weighted hourly rate for each person as to whom fees are claimed, and the total number of hours each person billed in connection with this case:

Fish Employee	J.D. Year	Date Joined Case	Hours Worked	Hourly Rate³	Total Amount
Christopher R. Dillon	1998	11/2019	984.3	\$847	\$833,309
Whitney A. Reichel	2005	11/2019	799.9	\$799	\$639,224
Jacob B. Pecht	2017	07/2020	351.8	\$484	\$170,223
Kayleigh E. McGlynn	2019	12/2019	433.5	\$438	\$189,985
Trevor Goodrich	N/A	06/2020	173.8	\$300	\$52,106
Matthew W. Compton	N/A	07/2022	73	N/A	Not billed to Belanger
Total			2,816.3	\$687	\$1,884,847

13. In the course of practicing law for approximately 24 years, I have negotiated budgets with numerous clients. In my experience and opinion, Fish & Richardson's hourly billing rates are in line with those of large international and national firms with comparable practices. Fish & Richardson has what is generally considered the leading intellectual property litigation practice in the United States, with wide-ranging experience in trial and appellate litigation. Fish & Richardson has been recognized as a leader in intellectual property litigation by numerous awards, including:

- IP Practice Group of the Year, *Law360*, 2009, 2012–2016, 2018, 2020–2021
- Top National Ranking – Patent Litigation, *IAM Patent 1000*, 2012–2021

³ The hourly rates for certain timekeepers changed during the course of the case; the weighted average rate is shown in the table.

- Band 1 US Rankings for IP and ITC, *Chambers and Partners*, 2015–2022
- “Litigation Powerhouse” IP Litigation, *BTI Consulting*, 2019–2020
- IP Firm of the Year and National Impact Case of the Year, *Benchmark Litigation*, 2019
- IP Boutique Firm of the Year, *Managing Intellectual Property*, 2021
- Appellate Hot List, *National Law Journal*, 2009, 2012–2016, 2018–2019
- One of America’s Top Trusted Corporate Law Firms – IP, *Forbes*, 2019

Fish & Richardson reviews historical data showing how our past billing rates compare with our peer firms. In particular, we periodically receive data compiled by our firm’s bank showing how our past billing rates compare with the average and median rates of a group of firms that we have, in the ordinary course of our business, identified to the bank as peer firms. As noted, these are averages and medians; to maintain anonymity, the bank aggregates the data from the other firms and does not provide us with specific rates for any other firms. Fish & Richardson reviewed the most recent data, and it shows that in each of 2020 and 2021, Fish & Richardson’s average hourly billing rates for each of the reported cohorts (“Equity Partner,” “Income Partner,” and “Associate”)⁴ was below the averages and medians reported for the peer firms.

14. In my opinion, Fish & Richardson’s hourly billing rates are in line with the 2021 American Intellectual Property Law Association’s Report of the Economic Survey, taking into account the firm’s attorneys’ expertise, experience, and reputation, the importance of the case to Belanger, and the outcome of the case. For example, in 2020, the mean billing rate for law firm equity partners at firms with more than 150 IP attorneys was \$822. By way of another example, in 2020, the rate at the 90th percentile for IP equity partners was \$887 per hour. Given Fish &

⁴ Fish & Richardson does not have “Equity Partners” and “Income Partner,” but instead has “Equity Principals” and “Partial Equity Principals.”

Richardson's recognition in the field of patent litigation, the firm can charge rates in the 90th percentile.

15. Given our focus on patent litigation, we are often able to accomplish certain patent litigation tasks for fewer hours than our peers. According to the same 2021 AIPLA survey, the median cost for a case in 2020 with \$10M–\$25M at risk inclusive of pre-trial, trial, post-trial, and appeal (when applicable) is around \$3,000,000, while cases with more than \$25M at risk were about \$4,000,000. Our total fees for this matter to date are less than \$1.9M.

16. I have reviewed Fish & Richardson's accounting records showing the costs and other disbursements, such as expert disbursements, travel, and trial costs, that we have invoiced to Belanger as of August 22, 2022. They total \$491,512. These third-party costs were reasonable and necessary for this litigation.

17. Fish and Richardson invoices Belanger on a monthly basis. The amounts claimed through July 2022 have been invoiced to Belanger, and Belanger has paid all invoices through our recent May 23, 2022 invoice for \$40,750.01 and our July 18, 2002 invoice of \$175.

18. This Declaration and Exhibit A include highly confidential information about Fish & Richardson's billing rates and business practices, including the hours each team member worked and their hourly billing rates. Concurrently herewith, Belanger is filing a motion to restrict access to certain information in this Declaration and Exhibit A, which will be redacted from the publicly filed version of the Declaration. Care was taken in an effort to only seal information that is "Confidential" or "Highly Confidential – Attorneys' Eyes Only" pursuant to the Protective Order (Dkt. 27).

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Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct. Executed on August 23, 2022, at Concord, Massachusetts.

Dated: August 23, 2022

By: /s/ Christopher R. Dillon
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